

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE BEXTRA AND CELEBREX
MARKETING, SALES PRACTICES, AND
PRODUCTS LIABILITY LITIGATION

] Master Docket No. M:05-CV-01699-CRB

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MDL No. 1699

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THIS RELATES TO:

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MDL Case No. C-06-2946-CRB

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] Plaintiff: James R. Davis

Ellen Marie Baker, Special Administratrix
of The Estate of Ralph R. Baker,
Deceased, et al.,

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(Names)

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Plaintiffs,

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VS.

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Pfizer, Inc., et al.,

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Defendants.

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STIPULATION AND ORDER OF PARTIAL DISMISSAL WITHOUT PREJUDICE

IT IS HEREBY STIPULATED AND AGREED by and between the following specific Plaintiff James R. Davis ("Plaintiff") and Defendants Pfizer, Inc., Pharmacia Corporaiton and G.D. Searle, L.L.C. ("Pfizer"), pursuant to Fed. R. Civ. P. 41(a)(1), to a dismissal without prejudice of the following Plaintiff's claims which was filed in a consolidated, multi-plaintiff Complaint] against Defendant Pfizer:

1. James R. Davis

This Stipulation and Order, however, is a partial dismissal in that it does not affect any claims, counterclaims and issues by and between Defendant Pfizer and the following remaining Plaintiffs:

1. Ellen Marie Baker, Special Administratrix of the Estate of Ralph R. Baker, Deceased, and Ellen Marie Baker, Individually as Heir at Law;
2. Stacy L. Ray, Special Administratrix of the Estate of Arlyn Ray, Deceased, and Stacy L. Ray, Individually as Heir at Law;
3. Larry R. Miracle, Individually and as Heir at Law on behalf of Marian Miracle,

deceased;

4. Sarah B. Brown
5. John Buser
6. Carlos Cox
7. Helen McClish
8. Joy Monigold
9. Dewayne O'Neal
10. Lillian B. Pearson
11. Rubye Van Gieson
12. Ralph E. White
13. Doretta Williams

Specifically, the parties hereby stipulate and agree as follows:

1. Plaintiff, James R. Davis, dismisses his individual cause of action [which was filed within the above multiparty, consolidated Plaintiffs Complaint] without prejudice pursuant to Fed R. Civ. P. 41(a)(1)(ii).
2. This dismissal is voluntary and not on the merits. Plaintiff certifies that no other cause of action based on this claim has been previously dismissed in any Federal or State court.
3. Plaintiff agrees that, in the event he refiles a lawsuit against Pfizer that contains claims relating to Bextra® and Celebrex®, such lawsuit will be filed in a United States District Court and it will not include defendants whose presence would destroy diversity jurisdiction;
4. Plaintiff further agrees that in the event he re-files such lawsuit, any discovery that has taken place or will take place *In Re Bextra and Celebrex Marketing, Sales Practices, and Products Liability Litigation* (MDL-1699), the MDL proceeding that has been established

in the United States District Court for the Northern District of California, and that is not specific to a particular plaintiff, can be used in any such lawsuit re-filed by Plaintiff, as though Plaintiff had been a party and had an opportunity to participate in that discovery.

5. Each party will bear its own fees, expenses and costs.

Plaintiff and Defendants agree to the above-stated conditions and the specific Plaintiff wishes to dismiss his claim in the instant lawsuit without prejudice to re-filing, subject to the conditions stated above. There are no counterclaims or third-party claims. Nothing in this stipulation shall constitute a waiver of any rights and defenses Pfizer may have in any litigation.

WHEREFORE, the parties hereto stipulate to the dismissal of the claim of Plaintiff James R. Davis in the above-styled lawsuit without prejudice to re-filing, subject to the conditions stated above.

SAN FRANCISCO, CALIFORNIA, this 15th day of June, 2006.

Respectfully Submitted by:

Dated: June 7th, 2006

UNITED STATES DISTRICT JUDGE CHARLES R. BREYER



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